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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,097	03/10/2004	Carl Wimmer	2394-100	2363

7590 08/04/2006

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EXAMINER

ALEXANDER, REGINALD

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,097

Applicant(s)

WIMMER ET AL.

Examiner

Reginald L. Alexander

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 21-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langbauer in view of Wiberg.

There is disclosed in Langbauer an infusing apparatus, comprising: a vessel 2 for containing liquid; a heat source 6 to heat the liquid; a circulator (col. 13, lines 53-59) to circulate and mix the liquid; a perforated container 3 for containing an infusible material; and an actuator (microprocessor controller) for independently submerging and removing the container within the liquid.

Wiberg discloses the use of multiple infusing containers.

It would have been obvious to one skilled in the art to provide Langbauer with an additional infusing container as taught by Wiberg, so as to hold more infusing material.

Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langbauer in view of Wiberg as applied to claim 1 above, and further in view of Joergensen.

Joergensen discloses an infusing container having a perforated side wall which extends upwardly from an impermeable base.

Art Unit: 1761

It would have been obvious to one skilled in the art to substitute the infusing container of Langbauer, as modified by Wiberg, with the infusing container disclosed in Joergensen, in order to provide an alternative infusing container arrangement.

Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langbauer in view of Wiberg as applied to claim 1 above, and further in view of EP 516884.

There is disclosed in the European reference an infusing device which makes use of a steam (gas) generator and steam passageway to heat and circulate infused liquid.

It would have been obvious to one skilled in the art to provide the device of Langbauer, as modified by Wiberg, with the steam generator taught in EP 516884, in order to supplement the heating and circulation of the infused liquid.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langbauer in view of Joergensen.

Langbauer, as disclosed above, discloses all of the claimed method steps except that of preventing dripping.

The container structure of Joergensen would provide for the prevention of any dripping of concentrated infusible material.

It would have been obvious to one skilled in the art to substitute the container of Langbauer with that disclosed in Joergensen, in order to prevent concentrated infusing material from dripping when the container is removed from the liquid.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langbauer in view of Joergensen as applied to claim 16 above, and further in view of Sekiguchi.

Sekiguchi discloses the step of providing a pressurized gas to the infused liquid. It would have been obvious to one skilled in the art to provide the device of Langbauer, as modified by Joergensen, with the pressurized gas (oxygen) taught by Sekiguchi, in order to oxygenate or carbonate the liquid.

Allowable Subject Matter

Claims 21-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 26 June 2006 have been fully considered but they are not persuasive. Applicant argues that the prior art reference to Langbauer fails to disclose a circulator. It should be noted that at column 13, lines 53-59 of Langbauer there is described perforations 40 which provide for the circulation of liquid within the vessel. There is nothing in applicants claims which would differentiate the claimed circulator from that taught in Langbauer. There is claimed no specific location or other structural limitations pertaining to the circulator.

In response to the different submerging times for different flavoring agents, such is not brought out in the claims and any structural sense.

While Wiberg fails to disclose independent movement of the plural infusing containers, there is the disclosure of multiple infusing containers. It is this feature that makes Wiberg pertinent. The independent movement is, as discussed above, not brought out in the claim language.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

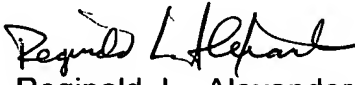
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla
24 July 2006


Reginald L. Alexander
Primary Examiner
Art Unit 1761